

*NOAA Workforce Management Office
Legal and Policy Requirements*

April, 2011

Elements used in a selection process must be job related and must use legal and consistent criteria to determine the best qualified candidates for referral and selection. Merit principles and job relatedness have been long-standing requirements in the Federal government.

In 1978 the Civil Service Reform Act, Uniform Guidelines on Employee Selection Procedures (UGESP), was issued. The guidelines are intended to establish a uniform basis of selection procedure criteria in the Federal sector. This guide imposes on employers the criteria by which the Equal Employment Opportunity Commission evaluates hiring practices to ensure adherence to merit principles. The UGESP applies to both in-service placement actions and external hiring practices.

A selection procedure is any measure, combination of measures, or procedures used as a basis for an employment decision. This applies, but is not be limited to, job analyses, crediting (ranking) plans, interviews, and the selection process itself.

All documents and the processes that develop these documents, which support the referral and selection of candidates, must contain only job-related criteria. The documents become part of the overall record supporting selection procedures used.

Merit System Principles

Personnel management is based on and embodies the Merit System Principles. The Merit System Principles are the public's expectations of a system that is efficient, effective, fair, open to all, free from political interference, and staffed by honest, competent and dedicated employees. As NOAA experiences continued change in the management of human resources (centralization, deregulation, delegation, etc.), it becomes increasingly important that line supervisors and managers incorporate the Merit System Principles into every decision process they use. The Merit System Principles are:

1. Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge and skills, after fair and open competition which assures that all receive equal opportunity.
2. All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.
3. Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

4. All employees should maintain high standards of integrity, conduct, and concern for the public interest.
5. The Federal work force should be used efficiently and effectively.
6. Employees should be retained on the basis of adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.
7. Employees should be provided effective education and training in cases in which such education and training would result in better organizational or individual performance.
8. Employees should be—
 - A. protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and
 - B. Prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.
9. Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences –
 - A. A violation of any law, rule, or regulation, or
 - B. Mismanagement, a gross waste of funds, an absence of authority, or a substantial and specific danger to public health or safety.

Prohibited Personnel Practices

Prohibited personnel practices are those things an employee with personnel authority may not do. An employee has personnel authority if he or she can take, direct others to take, recommend, or approve any personnel action. This includes appointments, promotions, discipline, details, transfers, reassignments, reinstatements, restoration, reemployment, or performance evaluation, or any decisions concerning pay, benefits, training, and any decision to order psychiatric testing or examination. A personnel action also includes any significant change in duties, responsibilities, or working conditions which is inconsistent with the employee's salary or grade. People with personnel authority are charged with avoiding prohibited personnel practices. Prohibited personnel practices are:

- **Discriminating** on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation.
- **Soliciting** or **Considering** any personnel recommendation or statement not based on personal knowledge or records of performance, ability, aptitude, general qualifications, character, loyalty, or suitability.
- **Coercing** an employee's political activity.
- **Deceiving** or **obstructing** any person with respect to such person's right to compete for employment.
- **Influencing** a person to withdraw from competition for the purpose of improving or injuring the prospects of another person for employment.
- **Granting** any preference or advantage not authorized by law, regulation, or rule to any employee or applicant for the purpose of improving or injuring the prospects of another person for employment.
- **Appointing, employing, promoting, advancing, or advocating** a relative.
- **Retaliating** against a Whistleblower, whether an employee or an applicant.
- **Retaliating** against employees or applicants who exercise their appeal rights, testify, or cooperate with an Inspector General or the Special Counsel, or refuse to break the law.
- **Discriminating** based on actions not adversely affecting performance.
- **Violating** any law, rule, or regulation implementing or directly concerning the Merit Principles.

Avoiding prohibited personnel practices will not guarantee that you will never have to defend a decision or action, but it will give you a firm basis from which to start.

NOAA Merit Assignment Plan

The underlying principle of the [NOAA Merit Assignment Plan \(MAP\)](#) is to provide management with the greatest flexibility in filling vacancies. The MAP sets forth policies, procedures and requirements, which assure that qualified candidates are considered for assignment to positions in the competitive service, based solely on job-related evaluation procedures. Selections will be made free of discrimination on the basis of race, color, religion, sex, national origin, marital status, age, reprisal or disability. Selections shall be based solely on relative knowledge, skills, abilities, other job-related criteria and legitimate position requirements.

The MAP provides guidance in obtaining qualified internal and external candidates to compete equitably for assignment opportunities either concurrently or separately in accordance with Federal merit promotion policy. Department policy requires vacancy announcements to remain open for a minimum of seven calendar days.

You should remain conscious of the merit system principles, prohibited personnel practices and the NOAA MAP to ensure legal requirements are met.

For additional information: [WFMO Contact Lists](#)